HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.7863 of 2007

Between:

Union of India, Rep by
The Senior Superintendent of Post Offices,
Ongole.
And another.

… Petitioners

AND

The Agricultural Marketting Committee,
Addenki,
Rep by the Spl.Grade Secretary.

and two others.

… Respondents

; O R D E R :

Counsel for the petitioners : Shri V.Vinod Kumar

Counsel for respondent No.1 : Shri K.Madhava Reddy

Dated: 19th April, 2007

Per C.V.NAGARJUNA REDDY, J.

In this petition, the petitioners have questioned the legality of order dated 9.6.2004 passed by District Consumer Redressal Forum, Prakasham District at Ongole (for short, 'the District Forum') in C.D.No.176 of 2003 and order dated 14.12.2006 passed by Andhra Pradesh State Consumer Disputes Redressal Commission (for short, 'the State Commission') in F.A.No.976 of 2004.

The facts in the nutshell are that some individual employees working in the Agricultural Market Committee, Addanki (respondent No.1 herein) represented by Special Grade Secretary approached the Sub-Post Master, Addanki, (petitioner No.2 herein) for purchasing Kisan Vikas Patra bonds (for short "KVP bonds"). Petitioner No.2 after being apprised of the fact that the KVP bonds are being purchased for the benefit of the individual employees, sold KVP bonds worth Rs.2,00,000/- on 12.3.1997. Immediately on the maturity date i.e., 11.9.2002, Secretary of the Market Committee addressed letter to petitioner No.2 and sent reminders for payment of maturity value. However, his claim was turned down by Superintendent of Post Offices, Ongole, who, vide his letter dated 9.4.2003 informed the Secretary of the Market Committee that in view of the amendment made in Rule 6 of the KVP Rules, 1988 vide notification dated 8.3.1995, individuals and trusts alone are eligible to purchase KVP bonds and that the sale of KVP bonds by petitioner No.2 was irregular.

On receipt of the above noted communication, respondent No.1 filed complaint under Section 12 of the Consumer Protection Act 1986 (for short, 'the Act') and prayed that the opposite par;ties (the petitioner

herein) be directed to pay maturity amount in lieu of KVP bonds along with interest at the rate of 16.5% from 12.5.1997 and compensation/damages to the tune of Rs.1,00,000/-.

The petitioners filed a counter to contest the claim made by respondent No.1. they admitted the sale of KVP bonds by petitioner No.2 to respondent No.1 and the fact that the maturity value of the KVP bonds was Rs.4,00,000/-, but pleaded that the claimant is not entitled to maturity value of the KVP bonds because in view of the amendment made in Rule 6 vide notification dated 8.3.1995, petitioner No.2 could not have sold KVP bonds to respondent No1. It was further pleaded that the officials of the department, namely, Counter Clerk and the Sub-Post Master, Addanki did not notice the rule position till September 2002 when they for the first time realized that irregularity was committed by issuing KVP bonds to a group of employees of respondent No.1. On the premise aforesaid, the petitioner denied their liability to pay any compensation or damages while expressing their readiness to pay the face value of KVP bonds without interest.

On consideration of rival pleadings and arguments of the counsel for the parties, the District Forum rejected the plea of the petitioners that KVP bonds were not purchased by individuals and, therefore, they are not covered by KVP Rules, 1988. The District Forum categorically held that Special Grade Secretary of respondent No.1 – Agricultural market Committee had purchased the KVP bonds on behalf of the individual employees and the money was drawn from the individual provident fund of the employees and as such the purchase of KVP bonds cannot be treated as violative of the KVP rules. The District Forum further held that the petitioners had not raised any objection at

the time of sale of KVP bonds and, therefore, they are not entitled to raise this plea for countering the claim of respondent No.1 for payment of interest and compensation/damages. The District Forum concluded that there was deficiency of service and directed the payment of full maturity amount of Rs.4,00.000/- with interest at the rate of 9% per annum from the date of maturity, i.e., from 11.9.2002 till the date of realization apart from Rs.5,000/- towards compensation and Rs.1,000/- towards costs of the litigation.

The appeal preferred by the petitioners against the order of the District Forum which was registered as F.a.No.976 of 2004 was dismissed by the State Commission vide its order dated 14.12.2006.

Shri V.Vinod Kumar, Additional central Government Standing Counsel argued that the view taken by the District Forum and the State Commission on the entitlement of respondent No.1 to get interest on the maturity value of KVP bonds is per se erroneous and, therefore, the orders impugned in the writ petition are liable to be quashed to the extent of award of interest, compensation and others. He submitted that before the amendment made vide notification dated 8.3.1995, the sale of these bonds in favour of groups was permissible, but after the amendment of Rule 6, sale of KVP bonds was restricted to individuals and trusts. Shri Vinod Kumar further argued that even though the KVP bonds were purchased by respondent No.1 from out of the provident fund of the individual employees, that transaction was legally impermissible and both the District Forum and the state Commission gravely erred by awarding interest, compensation and cost. The learned counsel submitted that the mistake committed by petitioner No.2 in selling KVP bonds to respondent No.1 in violation of Rule 6 of the KVP Rules was a bona fide mistake and the same did not constitute deficiency of service within the meaning of Section 2(g) read

with Section 2(o) of the Act. In support of his contention that inadvertent mistake does not constitute deficiency of service, he relied upon a judgment of the Supreme Court in Special Leave Petition (Civil) No.38 of 1995 dated 01.5.1995.

We have given serious thought to the arguments of the learned counsel, but have not felt persuaded to agree with him.

The learned counsel for the petitioners submitted that the respondents 3 and 2 committed serious errors in directing payment of the full maturity amount to respondent No.1. He submitted that prior to the amendment made to the Rules governing the KVP bonds, the sale of these bonds in favour of groups was permissible and in view of the amendment issued by way of notification No.GSR 119(E) dated 8.3.1995 which came into effect from 1.4.1995 sale of KVP bonds was restricted to individuals and trusts. He submitted that since the KVP bonds were issued in favour of the first respondent market committee, albeit from out of the provident fund amount of its individual employees, the same was not permissible under amended Rule. Sri Vinod Kumar also submitted that the second petitioner committed a mistake in not noticing the amendment to the Rules and for the bona fide mistake committed by him the department cannot be penalized. In support of his contention that inadvertent mistake does not constitute deficiency of service, he relied upon a judgment of the Supreme Court in Special Leave Petition (Civil) No.38 of 1995 dated 1.5.1995.

We have given serious thought to the arguments of the learned counsel, but have not felt persuaded to agree with him. It is not in dispute that petitioner No.2 issued KVp bonds to the person-in-charge of respondent No.1. It is also not in dispute that the KVP bonds were purchased from out of the provident fund amounts of the individual

employees of respondent No.1. As per the amendment notified in KVP rules on 8.3.1995, an adult for himself or on behalf of a minor or a minor or a trust are eligible to purchase under 'single holder type certificate'. The District Forum considered the factual matrix of the case and categorically held that the amount with which the KVP bonds were purchased belonged to the provident fund of the individual employees of respondent No.1 committee. This finding has been confirmed by the State Commission and we do not see any reason to interfere with the same. Rather, we are of the considered view that the purchases made by the person-in-charge of respondent No.1 market committee in order to invest the provident fund amount belonging to the individual employees falls very much within the ambit of "single holder type certificate'. Thus, the sale of KVVP bonds to respondent No.1 cannot be termed as irregular.

The argument of Sri Vinod Kumar that petitioner No.2 committed a mistake in not noticing the amendment and, therefore, respondent No.1 is not entitled to the full maturity amount with interest and compensation is only merit less. Even if it is assumed that the transaction is hit by the amendment, it is not possible to accept the contention of the learned counsel for the petitioners that for the fault on the part of petitioner No.2, the employees of respondent No.1 should be penalized. Even if petitioner No.2 committed a mistake, the Superintendent of Post offices concerned was under obligation to correct such a mistake. However, the fact of the matter is that till the expiry of the maturity period i.e., five and half years, the so-called mistake in the sale of KVP bonds was not detected. The petitioners hold responsible public offices. They are expected to act with due diligence when they deal with public money. They cannot simply disown their responsibility by taking a specious plea of 'mistake' or

'inadvertence'. If the petitioners have committed mistake the innocent public cannot be made to suffer for such mistakes.

The order of Supreme Court in Special Leave Petition (Civil) No.38 of 1995 on which reliance is placed by the learned counsel for the petitioners has no relevance to this case. In that case, though the notification dated 1.4.1987 issued by the Government of India prescribed a particular rate of interest, in the contract entered into by the officer concerned with the party who purchased National Saving Certificates, higher rate of interest was mentioned. In that view of the matter, Supreme Court held that the higher rate of interest mentioned due to inadvertent mistake of the staff did not become a part of the contract, which can be enforced against the Government of India.

In the instant case, petitioner No.2 received the money and sold the bonds and petitioner No.1 has never raised any objection till the completion of maturity date. It is difficult to presume that the petitioners were not aware of the amendment. In the absence of any allegation of fraud or collusion on the part of the petitioners with the respondent No.1, it is reasonable to presume that the petitioners were aware of the amendment and were satisfied that the respondent No.1, which was purchasing the KVP bonds for the individual benefit of its employees was eligible to purchase the said bonds. It is, therefore, not permissible for the petitioners to turn around after the maturity date and raise the plea that the acceptance was a mistake. Had the petitioners not accepted the offer of respondent No.1 and sold the bonds to it, the individual employees could have invested their monies somewhere else and earned reasonable rate of interest. We are, therefore, of the considered view that on the facts of this case, the petitioners are not justified in repudiating the claim of respondent No.1 on the ground that respondent No.1 was not eligible to purchase the KVP bonds and that

petitioner No.2 committed a mistake.

For the reasons mentioned above, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.10100 of 1997 filed by the petitioners for interim relief is disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

G.S.SINGHVI, CJ

Date: 19-04-2007.
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